

REMARKS

By this Response, Applicants propose to cancel claims 24-29. No claims have been added or amended. Upon entry by the Examiner, claims 1, 6, 7, 21 and 22 will remain pending. No new matter has been added.

In the event that the Examiner declines to enter the present Amendment, and (i) any portion of the present Amendment would place some of the claims in better form for appeal if a separate paper were filed containing only such amendments or (ii) any proposed amendment to any claim would render that claim allowable, Applicant respectfully requests that the Examiner inform Applicant of the same pursuant to MPEP §714.13.

Claim Objections

In the Final Office Action, the Examiner objected to claims 25-29 as being a duplicate of claims 6-7, 21-22 and part of claim 1. The Examiner suggests canceling claims 25-29.

Responsive to the Examiner's suggestion, claims 24-29 have been canceled without prejudice or disclaimer of the subject matter contained therein.

Accordingly, withdrawal of the objection to claims 25-29 is respectfully requested.

Rejection of Claims 24-29 Under 35 U.S.C. § 112, First Paragraph

In the Final Office Action, the Examiner objected to claims 24-29 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. This rejection is respectfully traversed in view of the cancellation of claims 24-29.

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 24-29 under 35 U.S.C. § 112, first paragraph.

Rejection of Claims 1, 6-7, 21-22 Under 35 U.S.C. § 103

The Examiner has rejected claims 1, 6-7 and 21-22 under 35 U.S.C. 103(a) as being unpatentable over *Sanuki* (U.S. Patent No. 7,019,380) in view of an ordinary skill in the requisite art. Applicants respectfully traverse the rejection.

Claim 1 is directed to a MOS transistor "wherein a long dimension of the at least one stress adjustor is placed parallel to a flow of current through said MOS transistors and is substantially equal to a gate length of said MOS transistor, the stress adjustor being positioned proximate a channel region of the MOS transistor".

It is the Examiner's position that *Sanuki* discloses removing portions of the silicon substrate (10) to form at least two trenches, and further that a long dimension of the at least one stress adjustor (23) is placed parallel to a flow of current through the MOS transistors and is substantially equal to a gate length of the MOS transistor. In the Examiner's "Response to Arguments", the Examiner comments "(i) it is noted that the term substantial is a relative term. Therefore, the length does not have to be exact or the same".

To the contrary, *Sanuki* is silent as to removing any portion of the silicon substrate to form at least two trenches. Further, the word "substantially" is a recognized term in the art as acceptable relative terminology. According to MPEP 2173.01(B), the term "substantially" is often used in conjunction with another term to describe a

particular characteristic of the claimed invention. *In re Nehrenberg*, 280 F.2d 161, 126 USPQ 383 (CCPA 1960). The court held that the limitation "to substantially increase the efficiency of the compound as a copper extractant" was definite in view of the general guidelines contained in the specification. *In re Mattison*, 509 F.2d 563, 184 USPQ 484 (CCPA 1975). The court held that the limitation "which produces substantially equal E and H plane illumination patterns" was definite because one of ordinary skill in the art would know what was meant by "substantially equal." *Andrew Corp. v. Gabriel Electronics*, 847 F.2d 819, 6 USPQ2d 2010 (Fed. Cir. 1988).

In the original specification, at paragraphs [0031] and [0032], it is clearly explained that the long dimension of the stress adjustor being substantially equal to the gate length facilitates modification of the mobility of the majority carrier in the channel region. In *Sanuki*, while a length of element 23 is depicted as parallel to a current flow, there is no teaching or suggestion that element 23 is substantially equal to the gate length of gate 21 therein. Instead, the length of element 23 is more accurately a length of the entire structure 20 and of no consequence to carrier mobility in the channel region. It is found in the disclosure of *Sanuki* that element 23 is intended to operate with portion 20c of element 20, for example at element isolation region 31 in FIG. 6. Accordingly, element 23 must be at least as long as length (lb) of element 20 rather than a gate length in order to function as described. Thus, the length of element 23 in *Sanuki* does not meet the claim limitation of being substantially equal to the gate length, nor would such a configuration be obvious in view of the specific teaching and function of *Sanuki*.

In view of the above, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 1, 6-7 and 21-22 under 35 U.S.C. § 103(a). Applicants further submit that claims 6-7 and 21-22 are in condition for allowance, at least by virtue of their dependency from allowable claim 1.

CONCLUSION

Applicants respectfully request that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing all remaining claims into condition for allowance. Applicants submit that the proposed cancellation of claims 24-29 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner. Therefore, this Amendment should allow for immediate action by the Examiner.

Furthermore, Applicants respectfully point out that the final action by the Examiner presented some new arguments as to the application of the art against Applicant's invention. It is respectfully submitted that the entering of the Amendment would allow the Applicants to reply to the final rejections and place the application into condition for allowance.

Finally, Applicants submit that entry of the amendment would place the application into better form for Appeal, should the Examiner dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicants submit that this claimed invention, as amended, is neither anticipated nor rendered obvious in view of the prior art references applied against this application. Applicants therefore request the entry of this Amendment, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

If the Examiner believes that additional discussions or information might advance the prosecution of the instant application, the Examiner is invited to contact the undersigned at the telephone number listed below to expedite resolution of any outstanding issues.

Please grant any extensions of time required to enter this response and charge any additional required fees to Texas Instruments' Deposit Account 20-0668.

Respectfully submitted,

Dated: 9-18-2008

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